

Sen. John J. Walsh, Chair
Sen. Brian G. Pettyjohn
Sen. Bryant L. Richardson
Sen. David P. Sokola
Sen. Bryan J. Townsend



Rep. Stephanie T. Bolden, Vice-Chair
Rep. Andria L. Bennett
Rep. Gerald L. Brady
Rep. Timothy D. Dukes
Rep. Jeffrey N. Spiegelman

STATE OF DELAWARE

JOINT LEGISLATIVE OVERSIGHT AND SUNSET COMMITTEE

Agricultural Lands Preservation Foundation 2.15.2017

Chair Walsh called the meeting to order at 5:37pm. Members present included Vice Chair Bolden; Senators Pettyjohn, Richardson, Sokola, and Townsend; and Representatives Brady and Spiegelman. Julie Fedele, JLOSC Analyst, and Holly Vaughn Wagner, Legislative Attorney, were also present. The Agricultural Lands Preservation Foundation (“the Foundation”) was represented by Austin Short, Deputy Secretary of the Delaware Department of Agriculture, Michael T. Scuse, Secretary of Agriculture, and Michael Parkowski, the Foundation’s legal counsel. Mr. Short also introduced Ken Simpler, State Treasurer and Board of Trustees Member, Scott Blaier, Planner for the Department of Agriculture, and Jim Kroon, Planner for the Department of Agriculture.

Chair Walsh welcomed the members of the committee to the fourth meeting of the Joint Legislative Oversight and Sunset Committee (“the Committee”) in the 149th General Assembly and called for introductions of members present. Chair Walsh read a brief explanation of the role of the joint committee. Senator Richardson motioned to approve the February 8, 2017 minutes, the motion carried 7 (Senators Walsh, Pettyjohn, Richardson, and Sokola; Representatives Bolden, Brady, and Spiegelman)-0. Chair Walsh then invited Mr. Short to present to the Committee on behalf of the Foundation.

Mr. Short began his presentation by outlining the history and objective of the Foundation, including the formation of the Forestland Preservation Program, established in 2005, and the Young Farmers Loan Program, established in 2011. Mr. Short then discussed the two-phased process for preservation enrollment. Phase I consists of a ten year temporary easement, in which the landowner agrees to maintain the land, but does not receive payment. Phase II consists of the process to purchase development rights from agricultural landowners, which includes a permanent easement.

Mr. Short outlined the requirements for application to the program, and then explained the process for bidding on properties to be included in the program. Mr. Short then detailed the Foundation’s legislative history, beginning in 1991 and ending in 2016. Mr. Short concluded his presentation with a discussion of the accomplishments of the program, including its successful preservation of twenty-four percent of the total farmland in Delaware, and the Foundation’s financial information. Lastly, Mr. Short discussed the Forestland Preservation Program and Young Farmers Loan Program, their missions, impact, and financial information.

Senator Sokola asked if there were any plans to make adjustments to the program to account for development pressures in New Castle County, Secretary Scuse clarified that land value was important to keep in mind along with discount rates. Senator Sokola asked if salt water intrusion was included in the LESA calculation, and it was clarified that environmental value and possible endangerment of species were included in that value calculation.

Representative Spiegelman asked if a provision existed that could allow for trading acreage or selling back development rights to landowners in order to purchase more expedient preservation districts. Mr. Short indicated that the preservation agreement would remain permanent, unless landowners elected to undergo the process to purchase back development rights at their full, current market value. Secretary Scuse clarified that the most helpful adjustment may be to eliminate the twenty-five year provision. Senator Townsend asked if it would make sense to sell back property in areas where there could be a reasonable expectation for development in a certain area. Senator Townsend also asked if amending the twenty-five year provision could only apply to future contract. Mr. Parkowski clarified that it is often difficult to prove that a piece of land cannot be farmed profitably, and that a change to the twenty-five year provision could not be applied retroactively.

Senator Richardson asked if ten acre farms should be expected to yield a higher profit than \$1,000 a year, Mr. Short clarified that the standard was not necessarily produced by the Foundation, but was a statutory requirement. Representative Bolden asked if reducing Phase I to five years could yield higher enrollment. Mr. Parkowski answered that the enrollment problem most obviously existed in the high level of discounting. Senator Townsend asked how synergies between the Foundation and Open Space could exist in a limited budget climate, Mr. Parkowski answered that they have worked collaboratively since the formation of the Foundation, and that opportunities exist in federal funding that could alleviate some of the competition for state funding.

Chair Walsh shifted discussion towards scheduling the Board's recommendation hearing. He motioned to schedule a meeting for March 14, 2017, which was seconded by Senator Pettyjohn. The motion was then withdrawn. Senator Walsh motioned to schedule a meeting for March 21, 2017, which was seconded by Representative Spiegelman and carried 10 (Senators Walsh, Pettyjohn, Richardson, Sokola and Townsend; Representatives Bolden, Bennett, Brady, Dukes, and Spiegelman)-0. Senator Walsh then opened the floor to public comment.

Public comment was taken from eleven guests.

Chair Walsh motioned to adjourn the meeting at 7:59pm, which was seconded by Representative Bolden and carried 10 (Senators Walsh, Pettyjohn, Richardson, Sokola and Townsend; Representatives Bolden, Bennett, Brady, Dukes, and Spiegelman)-0.

Respectfully prepared by:

Julie Fedele, Research Analyst-Joint Legislative Oversight and Sunset Committee

Access to the audio recording of this proceeding is available upon request.